REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claims 8-19 have been cancelled in favor of new claims 20-35. Support for the subject matter of the new claims is provided for example in the original claims, Figs. 1 and 5, and paragraphs [0021], [0022], [0031], [0032], and [0036]-[0038] of the published specification. The amendments were not presented earlier due to the unforeseeability of the remarks presented in the Final Rejection. (It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to any particular aspect of the referenced embodiments.)

Claims 8, 9, 11-14, 16, and 17 were rejected, under 35 USC §102(e), as being anticipated by Khan (US 2004/0203973). Claims 10 and 15 were rejected, under 35 USC §103(a), as being unpatentable over Khan (US 2004/0203973) in view of Faerber (US 2003/0031143). Claims 18 and 19 were rejected, under 35 USC §103(a), as being unpatentable over Khan (US 2004/0203973) in view of Horii (US 5,535,205). To the extent that these rejections may be deemed applicable to new claims 20-35, the Applicants respectfully traverse based on the points set forth below.

Claim 20 defines a radio receiving apparatus that transmits an acknowledgment/negative-acknowledgment (ACK/NACK) signal and a control signal to a radio transmitting apparatus. Together, the ACK/NACK signal and control signal govern whether the radio transmitting apparatus performs a new transmission, a retransmission, or no transmission according to an automatic repeat request (ARQ) scheme. In certain embodiments, the claimed subject matter

provides an advantage of improving system throughput by avoiding data transmission when channel quality is poor (see paragraphs [0008] and [0009] of the published specification).

Khan does not disclose the Applicants' claimed subject matter of an ACK/NACK signal and a control signal that govern whether a radio transmitting apparatus performs a retransmission according to an ARQ scheme. More specifically, Khan does not disclose retransmitting data. Thus, it necessarily follows that Khan cannot disclose the Applicants' claimed subject matter of an ACK/NACK signal and control signal that govern the retransmission of data in an ARQ scheme.

As illustrated in Khan's Figs. 1-3, Khan discloses three commands that govern the transmission of data; these commands are the Stop, Hold, and Start commands. Of the three commands, only the Start command causes data to be transmitted. Nowhere does Khan disclose that the Start command provides information for distinguishing whether the reception device wants new data transmitted or a retransmission of data that was not successfully received in a prior transmission. Faerber and Horii are not cited in the Final Rejection for supplementing the teachings of Khan in this regard.

Accordingly, the Applicants submit that the teachings of Khan, Faerber and Horii, even if combined as proposed in the Final Rejection, still would lack the above-noted features of claim 20, and thus these references, considered individually or in combination, do not render obvious the subject matter defined by claim 20. Independent claims 30, 34, and 35 similarly recite the above-mentioned subject matter distinguishing apparatus claim 20 from the applied references, but claims 34 and 35 do so with respect to methods. Therefore, allowance of claims 20, 30, 34, and 35 is deemed to be warranted. The dependent claims are considered to be allowable due to

their dependence from an allowable independent claim and also due to their recitation of subject matter that provides an independent basis for their individual allowability. Specifically, claim 25 further limits base claim 20 and recites that the particular control signal that is communicated from a radio receiving apparatus to a radio transmitting apparatus is selected based upon the measured quality of a channel between the radio transmitting and receiving apparatuses. As mentioned above in connection with claim 20, the control signal is used in conjunction with an ACK/NACK signal to govern a new transmission, a retransmission, or no transmission of data.

With respect to a command based on a quality measurement, the Final Rejection proposes that Khan discloses, in paragraphs [0009] and [0014], communicating either a Stop or Resume command based on the condition of a mobile station (see Final Rejection section 9, third paragraph). However, the only conditions of the mobile station for which Khan's Stop and Resume (i.e., Start) commands are communicated are those indicating that a data reception buffer has overflowed, filled past a threshold, and partially or completely emptied (see Khan Fig. 3, abstract, ¶ [0017], lines 1-7, and ¶ [0024], lines 4-10).

Nowhere does Khan disclose the claimed subject matter of communicating a command that governs a new transmission, a retransmission, or no transmission in accordance with the measured quality of a channel between a radio transmitting apparatus and a radio receiving apparatus. And Faerber and Horii are not cited in the Final Rejection for supplementing the teachings of Khan in this regard. Therefore, allowance of claim 25 is deemed to be warranted for this independent reason.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

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